

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

TRACYE BROGDEN

V

No. 10-0318

PEOPLES GAS LIGHT AND COKE
COMPANY

Complaint as to billing/
charges in Chicago, Illinois.

Chicago, Illinois

August 2, 2010

Met pursuant to notice at 10:00 a.m.

BEFORE :

MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES:

MS. TRACYE BROGDEN
3736 South Michigan Avenue
Chicago, Illinois 60653
appeared pro se;

MR. MARK L. GOLDSTEIN
3019 Province Circle
Mundelein, Illinois 60060
appeared for Respondent.

SULLIVAN REPORTING COMPANY, by
Teresann B. Giorgi, CSR

1 I N D E X

2 Dir. Crx. Re- Re- By

3 Witnesses: dir. crx. dir. crx. Examiner

4 NONE

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8 E X H I B I T S

9 APPLICANT'S FOR IDENTIFICATION IN EVIDENCE

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1 JUDGE RILEY: Pursuant to the direction of
2 the Illinois Commerce Commission, I call
3 Docket 10-0318. This is a complaint by Tracye
4 Brogden versus Peoples Gas Light and Coke Company as
5 to billing and charges in Chicago, Illinois.

6 Ms. Brogden, I understand you are
7 appearing without counsel at this point, is that
8 correct?

9 MS. BROGDEN: Uh-hum.

10 JUDGE RILEY: All right. Thank you.

11 And could you state your name and
12 spell your -- excuse me. State your name and give
13 us your home address for the record.

14 MS. BROGDEN: My name is Tracye Brogden. And my
15 home address is 3736 South Michigan Avenue, Chicago,
16 Illinois 60653.

17 JUDGE RILEY: Thank you.

18 Mr. Goldstein for Peoples?

19 MR. GOLDSTEIN: Yes.

20 On behalf of Commonwealth Edison
21 Company, Mark L. Goldstein, 3019 Province Circle,
22 Mundelein, Illinois 60060. My telephone number is

1 847-949-1340.

2 I'll enter the introductions of the
3 Peoples Gas personnel here today, starting on my
4 right.

5 MS. DANIELS: Betty Daniels.

6 MS. BARRAGAN: Teresa Barragan.

7 MS. HOOD: Cynthia Hood.

8 MS. MAGEE: Catherine Magee.

9 JUDGE RILEY: And just to recap some of the
10 procedural matters here.

11 This was actually marked heard and
12 taken. Mr. Goldstein, you had made a motion to
13 dismiss.

14 MR. GOLDSTEIN: Correct.

15 JUDGE RILEY: After which some review and
16 getting Ms. Brogden's response, I denied the motion
17 and this matter was reopened on July 2, 2010, and
18 that's where we are today.

19 Ms. Brogden, can you -- I note that
20 you've rewritten a substantial amount here with
21 regard to your complaint. I'm just wondering if
22 you could kind of whittle it down.

1 MS. BROGDEN: Yes.

2 JUDGE RILEY: It's all involving 3736 South
3 Michigan, is that correct?

4 MS. BROGDEN: Yes.

5 JUDGE RILEY: All right. This is not under
6 oath. It's being taken down by a court reporter.
7 But this is an informal session.

8 MS. BROGDEN: Oh, okay.

9 JUDGE RILEY: So just speak conversationally.

10 MS. BROGDEN: Basically, my issue is when I
11 contacted Peoples Gas about -- well, let me just go
12 back a little bit.

13 I moved to Albany, Georgia,
14 January 20th of 2009. So my house has been empty
15 since that point, other than from March until
16 June 1st, I had one of my daughter's friends live
17 there for that period of time.

18 I've been on the budget plan, I think,
19 now since maybe 2008 or something. And I had
20 noticed that my budget amount had been going up, but
21 I just said, you know, Well, maybe gas prices are
22 going up, but I just paid it.

1 When I moved out of the house and, you
2 know, I noticed when Jennifer left, you know,
3 June 1st, I noticed that I still had -- my bills
4 were still very high. So I thought, Well, wait a
5 minute, by now I should have paid off the balance of
6 the budget and I have not. So it was in 2009 that I
7 started to kind of pay attention to what was
8 happening with the bills.

9 Again, I'm living in Georgia and
10 there's no one there. So over the next -- you know,
11 2009, from like June all the way until the end of
12 the year, I started to notice the bills, you know,
13 still paying -- I think I was still paying at that
14 point -- but I kept noticing that I was having bills
15 that were similar to bills that I had when I was
16 living there, which made no sense, nobody's there.

17 So that's when I contacted Peoples
18 Gas. I think it was -- it was May when Jennifer
19 moved out. And then I tried to contact Peoples
20 Gas -- I started talking to them really early in,
21 you know, May, June, something like that.

22 And then I finally got a technician to

1 come out. And I came back home in December for --
2 the end of the year -- I had two weeks, at the end
3 of the year, vacation. So I came back for the two
4 weeks. Technician comes out. I'm there, so I'm
5 able to talk to him. And he looked at the meter.
6 He looked at -- he registered -- wrote down, you
7 know, what was -- what the gas amount was or
8 cubic -- I don't know how it works, and he said,
9 Yeah, there is a problem. So he said, What we need
10 to do is test your meter. So I said, Well, can you
11 make sure that you let, you know, Peoples Gas know
12 that?

13 Well, after that -- I go back after
14 New Year's back to Albany. And I get back to Albany
15 and I get a phone call from -- I think it was Maria,
16 and she says, Well, you know, the technician didn't
17 find anything. That's not what he reported,
18 et cetera.

19 So that's when I asked for -- I said,
20 Well, can you send a supervisor out because I really
21 think there's something wrong. That's when, I'm
22 assuming, Ms. Davis (sic) came out. I think that's

1 her --

2 MR. GOLDSTEIN: Davis.

3 MS. BROGDEN: Is it Davis? Okay.

4 Anyway, that's when a supervisor came
5 out. And Mr. Payne, who's the person watching my
6 property for me, basically was with her. They
7 walked through the house. And she said to him that
8 there was a problem with -- the gas was staying on
9 consistently. And she also said that there's a new
10 furnace on the third floor.

11 So when I contacted Ms., you know,
12 Marie, she basically said that that was -- you know,
13 what was said. But there was a problem and there
14 needed to be a new meter installed. So that's when
15 I said, Well, we already put a new meter in back in
16 2001. She had no record of that. I sent her my
17 information.

18 And long story short, that's when kind
19 of the story changed and there was no mention of
20 changing the meter anymore. It was just, You had
21 two years to dispute bills if you thought they were
22 high. And now, we are where we are, you need to

1 make a payment.

2 JUDGE RILEY: Okay.

3 MS. BROGDEN: And that's it.

4 JUDGE RILEY: Were you on an actual formal
5 budget plan with Peoples Gas?

6 MS. BROGDEN: Yes.

7 JUDGE RILEY: Do you remember when you went on
8 that plan?

9 MS. BROGDEN: It was before this. It was,
10 probably like, 2007 or 2008.

11 JUDGE RILEY: And was this a set amount that you
12 were to pay each month?

13 MS. BROGDEN: It started out like \$280 and by
14 the time I got to -- you know, fairly low, maybe
15 300. And by the time we got to this point, they
16 were 4-something. That's when I started thinking,
17 Well, wait a minute, I've been paying -- you know,
18 usually what happens is before the winter rolls back
19 around --

20 JUDGE RILEY: Right.

21 MS. BROGDEN: -- you go ahead and try to get
22 that paid off.

1 JUDGE RILEY: Right.

2 MS. BROGDEN: And then you start a new -- you

3 know, that way it gives you the whole summer to -- I

4 think that's what I did. That's what I do anyway.

5 JUDGE RILEY: Did you have a written copy of

6 that budget plan from Peoples?

7 MS. BROGDEN: No, I don't.

8 JUDGE RILEY: Do you remember how long it was

9 for?

10 MS. BROGDEN: I think the budget -- you know,

11 the budget plan, you're on it until you decide to

12 get off or if you stop paying or something.

13 JUDGE RILEY: So you thought you were just still

14 on the budget plan --

15 MS. BROGDEN: Yeah.

16 JUDGE RILEY: -- all along.

17 And then around January of '09, you

18 moved to Albany, Georgia, and the premises were

19 vacant.

20 MS. BROGDEN: The premises were vacant.

21 JUDGE RILEY: Except for March to June where you

22 let a friend --

1 MS. BROGDEN: Right. My daughter's friend.
2 JUDGE RILEY: Okay. Your daughter's friend?
3 MS. BROGDEN: Yes.
4 JUDGE RILEY: Okay. That person moved out.
5 MS. BROGDEN: She was there June 1st.
6 JUDGE RILEY: So there shouldn't have been any
7 usage from January to March --
8 MS. BROGDEN: Right.
9 JUDGE RILEY: -- and from the end of June on --
10 or from the end of May on.
11 MS. BROGDEN: Right. And if it was, it was
12 just, I guess, you know, keeping it on kind of
13 usage.
14 JUDGE RILEY: Okay.
15 MS. BROGDEN: But now during that time I did
16 have the heater on 60. But I'm getting bills
17 showing that I live there, not, you know, a 60 --
18 JUDGE RILEY: Right, just to keep the pipes
19 warm.
20 MS. BROGDEN: Just to keep the pipes warm.
21 JUDGE RILEY: And now, you have -- when did you
22 move back in or have you --

1 MS. BROGDEN: I haven't moved back in. I
2 actually came home this June -- I had surgery
3 June the 3rd. So I go back to Albany, actually, on
4 Thursday, this Thursday, which is why I was trying
5 to make sure that we get this done before the
6 winter.

7 JUDGE RILEY: In the meantime, have you been
8 living in the --

9 MS. BROGDEN: In the meantime, yes, I have been
10 living in the house.

11 JUDGE RILEY: Okay. What stretch of time was
12 that?

13 MS. BROGDEN: From June 4th until current.

14 JUDGE RILEY: So it's about two months.

15 MS. BROGDEN: About two months.

16 JUDGE RILEY: And other than that the place has
17 been vacant except for your recent occupancy and the
18 friend of your daughter's.

19 MS. BROGDEN: Yeah. And that was 2009. 2009 it
20 was only occupied for three months.

21 JUDGE RILEY: Right, three months.

22 MS. BROGDEN: And then --

1 JUDGE RILEY: It was like March, April and May.

2 MS. BROGDEN: Yes.

3 And then this year it's been -- well,

4 three months with the exception of the two weeks

5 that I came back and had the --

6 JUDGE RILEY: Okay.

7 MS. BROGDEN: -- I had a two-week vacation.

8 JUDGE RILEY: And then you say that the bills

9 were around -- you were on the budget plan for

10 around \$280 a month?

11 MS. BROGDEN: Right.

12 JUDGE RILEY: And that was without regard to

13 what month it was.

14 MS. BROGDEN: Without regard to what month it

15 was.

16 JUDGE RILEY: And the bills just started

17 increasing.

18 MS. BROGDEN: They started increasing.

19 JUDGE RILEY: Okay.

20 MS. BROGDEN: So when Jennifer was there -- by

21 the time she left in June, you know, I looked at the

22 bill and I thought, Well, wait a minute, I should be

1 done with this already --

2 JUDGE RILEY: Right.

3 MS. BROGDEN: -- or at least close to finishing

4 because we're getting ready to go into a new year.

5 So that's when I really started checking. I have to

6 admit I didn't -- you know, once I got on the budget

7 plan I just started paying and I didn't pay

8 attention to the actual monthly charges. I just

9 did, Okay, here's the budget amount. Let me just

10 pay the budget amount.

11 And then when it started increasing I

12 thought, Well, wait a minute, what's going on,

13 because I didn't live there.

14 JUDGE RILEY: Right.

15 MS. BROGDEN: So how can this increase -- you

16 know, how can I pay the same amount of money or more

17 and not live in the house?

18 JUDGE RILEY: Right. Okay. Good question.

19 Mr. Goldstein, I'm going to turn to

20 you. What's Peoples take on this?

21 MR. GOLDSTEIN: I think it would be easier if I

22 turned it over to --

1 MS. BARRAGAN: I can answer the question.

2 MR. GOLDSTEIN: -- Ms. Barragan and Ms. Daniels.

3 Ms. Barragan start and Ms. Daniels actually went out

4 to Ms. Brogden's house and made the inspection.

5 JUDGE RILEY: Okay.

6 MR. GOLDSTEIN: A lot of what Ms. Brogden said

7 about what occurred at the house at best is hearsay,

8 at worse it's not completely accurate. I'll turn

9 that part over to --

10 JUDGE RILEY: I don't know --

11 MR. GOLDSTEIN: -- Ms. Daniels.

12 JUDGE RILEY: -- we don't have any -- we're not

13 under oath. No hearsay yet.

14 MR. GOLDSTEIN: But, you know, when you report

15 something, the conversation that occurred,

16 Ms. Brogden was not present, that creates all kinds

17 of problems and creates --

18 JUDGE RILEY: Well --

19 MR. GOLDSTEIN: -- an impression that is not

20 accurate.

21 JUDGE RILEY: -- okay -- well --

22 MR. GOLDSTEIN: Let's start with Ms. Barragan

1 and we can go from there.

2 MS. BARRAGAN: Okay. I show that in '09 -- I
3 don't have '08 with me -- the budget was \$390.

4 JUDGE RILEY: That was the payment on the budget
5 plan?

6 MS. BARRAGAN: Yes, sir.

7 JUDGE RILEY: 390 a month?

8 MS. BROGDEN: That was in '08.

9 MS. BARRAGAN: Yes.
10 That was in '09.

11 MS. BROGDEN: That's when they started going up.

12 MS. BARRAGAN: Right. That's when the budget
13 was at 390 at that particular time.

14 JUDGE RILEY: Does it say when the budget plan
15 began?

16 MS. BARRAGAN: I don't have that here with me.
17 That was a previous account.

18 I think it was in your husband's and
19 your name before -- or your maiden before --

20 MS. BROGDEN: No.

21 MS. BARRAGAN: -- because it was in your name
22 prior to this last time, it was just an account

1 number. Remember when we spoke, it was in your
2 maiden name or your husband's name at one point?

3 MS. BROGDEN: You just recently changed the
4 account number.

5 MS. BARRAGAN: Prior to April, before that it
6 was in the -- in the -- both of your billings was in
7 your name just for the most recent time. Prior to
8 that it was in your husband's name and your name at
9 that time, is that correct?

10 MS. BROGDEN: I think it's the same number.

11 MS. BARRAGAN: No, it's not. It's a different
12 number. I believe it was solely in your husband's
13 name and your maiden name, I believe.

14 MS. BROGDEN: No. Actually, when I got on the
15 budget plan I was divorced. I got divorced --

16 MS. BARRAGAN: That's what I'm saying, that's
17 the new account.

18 MS. BROGDEN: All right. I have a bill from
19 2007 -- maybe you're right, I don't know. I have a
20 bill from -- it does look like -- 2002. And the
21 current bill, I think, ends in 500.

22 MS. BARRAGAN: Right.

1 Jesse Stover (phonetic) back in
2 October --

3 MS. BROGDEN: He moved in in '09.

4 MS. BARRAGAN: But that's a different account.

5 MS. BROGDEN: Yes.

6 MS. BARRAGAN: It was another name. It was in
7 your husband's name because you and I verified that,
8 because you said, Oh, that was my husband. I got
9 divorced. I put the account in my name. That was
10 one of our conversations we spoke of, because I
11 asked about the difference in the names and you
12 said, I was married. I got divorced, but I stayed
13 in the property. So that's correct, is that right?

14 MS. BROGDEN: Yeah, but I'm not sure what the
15 point is.

16 MS. BARRAGAN: Well, the budget amount that he's
17 asking for, it was in a different account is what
18 I'm making reference to.

19 MS. BROGDEN. What I'm telling you is Bill and I
20 didn't get on the budget plan. There was no budget
21 plan. I'm the person who started the budget plan.
22 So there was a budget plan prior to this 2009 --

1 MS. BARRAGAN: You may very well be correct. I
2 just don't have that far back as far as --

3 MS. BROGDEN: Yeah, okay.

4 MS. BARRAGAN: -- the records.

5 MS. BROGDEN: But you are correct with the name
6 change because I got divorced in 1999.

7 MS. BARRAGAN: What happens is they purge the
8 information.

9 MS. BROGDEN: Okay. That other information.
10 All right.

11 MR. GOLDSTEIN: Ms. Barragan, why don't you
12 explain what the payment history has been for
13 Ms. Brogden.

14 MS. BARRAGAN: The records show that the last
15 payment we received was in October of 2009. The
16 last payment was made for -- is that correct,
17 October of '09 was the last payment?

18 MS. BROGDEN: I don't know when it was. It was
19 awhile ago. It was after this situation.

20 MS. BARRAGAN: The payment that was made
21 October 13th of 2009 was for the amount of \$511. So
22 I can say prior to that in '08, the budget was 362,

1 actually, and 355.

2 MS. BROGDEN: Yeah, it was --

3 MS. BARRAGAN: That was in '08, that you started
4 making payments in those dollars amounts, 362, 355.
5 So does that sound about right back in '08? Because
6 that's what the payments were. I found something to
7 make reference to the budget amount of 355, 362,
8 were the amounts back in '08.

9 JUDGE RILEY: What is the Complainant's balance
10 now?

11 MS. BARRAGAN: The total amount on the account
12 as of May 24, we show an amount of \$3,757.47.

13 JUDGE RILEY: How could that be with no usage?
14 I mean, is that just interest and fees and --

15 MS. BARRAGAN: She hasn't made a payment since
16 October of 2009. And not all the actual usage was
17 being paid on the account. She was on a budget.

18 JUDGE RILEY: Right.

19 I want to go back to Ms. Brogden.

20 Is that essentially correct?

21 MS. BROGDEN: As far as stopping the payments,
22 yes, I did stop the payments. But as of September

1 of 2009 -- again, I'm not living in the house --
2 October's bill was \$322; November's bill -- and I'm
3 not sure of these numbers, maybe this is September,
4 322, 463, 721. And then I want to say the one --
5 there was another one I have down, 1457.

6 MS. BARRAGAN: Okay. So that right there you're
7 making reference to 2008. Because what we're
8 showing here your actual usage was, starting from
9 November 21st of '08, was \$456.18, November, and
10 your December of '08 bill was \$1,457.54. Your
11 December of '08 to January of '09 actual usage was
12 \$1,434.55.

13 JUDGE RILEY: Excuse me.

14 Is this monthly usage?

15 MS. BARRAGAN: Actual usage, correct.

16 MS. BROGDEN: Yes.

17 MS. BARRAGAN: Then your January 23rd of '09 to
18 February 23rd of '09 actual usage was \$1,075.19.

19 JUDGE RILEY: All right. Let's stop right there
20 because you're saying that you had vacated the
21 premises in January of '09 and turned the thermostat
22 down to 60 degrees.

1 MS. BROGDEN: That's where the issue comes in.

2 JUDGE RILEY: Right.

3 MS. BROGDEN: Otherwise I've been paying the
4 bill and I got on a budget plan -- you know, you
5 think when people -- when they come out and do what
6 they do as far as the meter, I don't know what size
7 it's supposed to be. All I can do is say, Here's my
8 house. Look at it and tell me what it's supposed to
9 be, which is what I thought happened.

10 When this situation -- and I'd still
11 be paying the bill had I not moved because I would
12 have not questioned it.

13 JUDGE RILEY: One of the other questions that
14 I've got right now is that if these bills are
15 running, you know, 12, 13, \$1400 a month for usage
16 from the time she stopped paying in -- what was
17 it --

18 MS. BARRAGAN: This is before.

19 JUDGE RILEY: Oh, I'm sorry, this is before she
20 stopped paying.

21 MS. BARRAGAN: '08/'09, not '09/'10.

22 JUDGE RILEY: All right.

1 MS. BARRAGAN: This is prior to.

2 MS. BROGDEN: The bills that you were talking
3 about are January, 1075, January of '09, for March
4 of '09, 435. I said, Okay, maybe March -- maybe she
5 did use 435, these are actuals. But then when she
6 moved out, I moved out in January and February, how
7 can I use a thousand dollars worth of gas?

8 MS. BARRAGAN: You're talking '09 or '10?

9 JUDGE RILEY: '09 --

10 MS. BROGDEN: I'm talking '09.

11 JUDGE RILEY: -- when she moved out.

12 MS. BARRAGAN: And that's when you've had that
13 high hike in usage, it's not the most recent one,
14 you're correct.

15 MS. BROGDEN: That's where the whole issue came
16 in. You know, I didn't think anything about it
17 until I moved and that's when I realized that I'm
18 still using gas. So I said, Well, wait, how can I
19 use gas and I don't even live there?

20 MS. BARRAGAN: You said she moved out in June of
21 '09?

22 MS. BROGDEN: June 1st of '09.

1 MS. BARRAGAN: This is while she was there that
2 this is being used.

3 MS. BROGDEN: No, I'm talking about January and
4 February.

5 MS. BARRAGAN: And that's when this usage came
6 about.

7 MS. BROGDEN: She didn't move in until March.

8 MS. BARRAGAN: You're saying she moved out in
9 '09?

10 MS. BROGDEN: Yeah.

11 JUDGE RILEY: Yes.

12 MS. BARRAGAN: When in '09?

13 MS. BROGDEN: She moved out June 1st of '09.

14 MS. BARRAGAN: Correct.

15 MS. BROGDEN: She moved in in March.

16 MS. BARRAGAN: So then these bills are before
17 that. These are from December of '08, January of
18 '09, February of '09.

19 MS. BROGDEN: She wasn't there in January of
20 '09.

21 JUDGE RILEY: The Complainant's point is, she
22 didn't -- no one lived in the premises January and

1 February and March.

2 MS. BARRAGAN: Of what year?

3 MS. BROGDEN: '09.

4 MS. BARRAGAN: Okay. Because I thought this

5 March she was there.

6 MS. BROGDEN: Oh, no.

7 MS. BARRAGAN: Okay. That's where I'm confused.

8 MS. BROGDEN: 2010, nobody -- nobody lived there

9 2010, either.

10 JUDGE RILEY: That's the issue. The premises

11 weren't occupied for these particular periods of

12 time and yet there's thousands of dollars --

13 hundreds of dollars worth of usage off of a

14 thermostat that was set at 60 degrees.

15 MS. BARRAGAN: I wrote down that she said she

16 moved in January of '09.

17 JUDGE RILEY: No, she moved out.

18 MS. BARRAGAN: Okay.

19 JUDGE RILEY: That's when you moved to Albany,

20 Georgia, is that correct?

21 MS. BROGDEN: I moved to Albany, Georgia, in

22 January of '09.

1 JUDGE RILEY: Right.

2 MS. BROGDEN: I started on the same day Obama
3 started. I moved out January. My first day at work
4 was the 20th because the 19th was a holiday. The
5 house was empty '09. Jennifer moved in March the
6 1st and she moved out June the 1st and I still have
7 significant usage. Nobody was there, because this
8 is my first year at work. I don't have vacations
9 until the end of the year. And I hooked it up with
10 all of the holidays. So I was able to stay here for
11 two weeks December of '09 and that's when I got
12 the person -- you know, the guy to come out and look
13 at everything. And then shortly after that in
14 January of -- you know, in 2010, again, I didn't
15 come home until June the 3rd or the 4th, had
16 surgery, and I'm leaving Thursday, this Thursday.
17 So I've only been here June, July and -- you know,
18 I've only been here two months. And nobody -- my
19 kids are in college. There's nobody that is in my
20 house.

21 MR. GOLDSTEIN: Could I interject something
22 here, Judge?

1 JUDGE RILEY: What is it, Mr. Goldstein?

2 MR. GOLDSTEIN: As I understood the complaint
3 and I only understand part of it, part of the
4 complaint is that Ms. Brogden is complaining about
5 the size of her residential meter.

6 MS. BROGDEN: The only --

7 JUDGE RILEY: Please stop. Stop.

8 MR. GOLDSTEIN: And the other part of her
9 complaint is that if her meter was properly sized,
10 she would be getting the proper gas bills for her
11 residence. Now, her residence is a very large
12 residence. And Ms. Daniels can tell you that there
13 are 16 gas appliances in the residence. And the
14 reason she is here today is to explain why these
15 bills are as they are. These bills are all based on
16 actual meter readings and the meter is performing
17 accurately.

18 JUDGE RILEY: What do you mean about the size of
19 the meter?

20 MR. GOLDSTEIN: Well, that's what I want
21 Ms. Daniels to explain rather than myself.

22 MS. DANIELS: The capacity amount of gas the

1 meter will pass. Her meter is undersized. There's
2 a meter at her location that passes 415 cubic feet
3 of gas. I found 16 appliances, slash, appliances, 8
4 of them were fireplaces that use gas at her premise.

5 Prior to that we did change her meter.
6 We had a meter in there that passed 210 cubic feet
7 of gas and we increased it to a meter that passes
8 415 cubic feet of gas, based on her appliances.

9 When I went out on my investigation, I
10 found that there was a forced air furnace in her
11 attic that we weren't aware of and it's a 75,000
12 cubic feet -- uses 75,000 cubic feet. We weren't
13 aware that that appliance was in her attic. Had we
14 been aware we would have put in a larger meter when
15 we installed the meter that passes 415 cubic feet of
16 gas. So that is the reason her meter now needs to
17 be increased.

18 JUDGE RILEY: So the meter was too small in
19 measuring the amount of gas. It was increased once.
20 And now you're saying it has to be increased again.

21 MS. DANIELS: It has to be increased again.

22 JUDGE RILEY: Because of the --

1 MS. DANIELS: Because we found a forced air
2 furnace in her attic.

3 JUDGE RILEY: Now, is this in addition to
4 another furnace that's in the home?

5 MS. DANIELS: There's two boilers in her
6 location as well.

7 JUDGE RILEY: Two boilers.

8 MS. DANIELS: Correct.

9 JUDGE RILEY: Both using gas.

10 MS. DANIELS: Yes, sir.

11 JUDGE RILEY: Plus this furnace you never knew
12 about.

13 MS. DANIELS: Yes, sir.

14 JUDGE RILEY: And that's hooked up, attached and
15 measuring -- the gas usage is being measured?

16 MS. DANIELS: Yes, sir.

17 JUDGE RILEY: All right. Ms. Brogden, I'll turn
18 to you.

19 How big is this place?

20 MS. BROGDEN: It's an old brownstone. It's
21 three levels. We put in zoned heating. The third
22 floor, everything that's there has been there since

1 1997. So when they put the first meter in, I didn't
2 think anything about it. But that was incorrect
3 because I got high bills. In 2001 I finally said,
4 It is freezing in here, but yet I'm paying a grand a
5 month. So that's when I had them come back out.
6 They went through everything in the house. I don't
7 even use the third floor. I have two levels that I
8 live on. I don't even use the third floor. I have
9 two daughters and myself.

10 It's a large house, but the reason we
11 did it the way we did it was so that we could avoid
12 paying -- you don't have to turn on -- why would I
13 even turn on the third floor. There's nothing --
14 did you notice that there's nothing up there? Did
15 you see a bed or anything?

16 MS. DANIELS: On the third floor we saw the
17 boiler and a water heater.

18 JUDGE RILEY: A boiler and a water heater.

19 MS. BROGDEN: That's because there's bathrooms
20 on the third floor.

21 I mean, the point is -- I mean, what
22 you're saying is -- what you saw -- because he said

1 that you said -- I actually wrote down -- I typed up
2 the notes from Maria's conversation with you --

3 MR. GOLDSTEIN: Who's Maria?

4 We don't know a --

5 MS. BARRAGAN: Teresa.

6 MS. BROGDEN: Oh, that's you? I'm sorry.
7 Teresa.

8 You were the one who said that you
9 talked to her. And I actually typed it up. I have
10 it on tape, actually. But what you actually said
11 was that she was the one who said I needed a new
12 meter because I added an addition to my third floor.

13 MS. BARRAGAN: Because it appeared that there
14 was a new appliance added.

15 MS. BROGDEN: But how can you -- that's not
16 true.

17 MS. BARRAGAN: Right.

18 MS. BROGDEN: So I told you it was not true.
19 And I said, Well, it's funny you say this because
20 the same thing happened in 2001. And that's when
21 you said, Well, I didn't -- I don't have any records
22 of that. I can't go back that far. And I said,

1 Well, I do actually have a record of it. So, you
2 know, that's how we got to this point.

3 When I called you and I said, I do
4 have a record. You changed the meter. Here is the
5 meter. You still insisted that I had two years to
6 know whether or not I had the right meter. I should
7 have known that I didn't have a commercial meter,
8 that I should have known that my bills were still
9 too high. I had two years. And the best I could do
10 is do a payment plan.

11 MS. BARRAGAN: What I said to you is --

12 MS. BROGDEN: And that's --

13 MS. BARRAGAN: -- that's what appeared because
14 she didn't know or she couldn't attest to when you
15 installed it.

16 Also, yes, I said you had two years to
17 dispute once we changed it because if you felt at
18 that time your bills were high as you were bringing
19 it to the attention of the Gas Company at this
20 point, I'm quite certain you would have done it back
21 then.

22 MS. BROGDEN: What I noticed was they were not a

1 thousand dollars a month anymore, that they did drop
2 down. That was a relief for me. I didn't -- I just
3 said, Great, I can pay these. But then when I move
4 out of the house and I'm still getting hit with high
5 bills, that's -- again, that's the only reason that
6 I even noticed it.

7 MS. BARRAGAN: But if you're not there how can
8 you attest to the fact that the meter, the
9 thermometer is set at a certain temperature if
10 you're not in the property? How are you even sure
11 it's set at that temperature?

12 MS. BROGDEN: Thermometers you just set them on
13 60 and they stay.

14 MS. BARRAGAN: Unless someone changes it.

15 MS. BROGDEN: Nobody's there.

16 JUDGE RILEY: That's the point. No one was
17 there to change it.

18 Ms. Daniels, I'm going to get back to
19 you for a minute.

20 With regard to these -- what was on
21 the third floor? A boiler?

22 MS. DANIELS: There was a -- yeah, there's a

1 boiler and a water heater on --

2 MS. BROGDEN: It's actually not a boiler.

3 MS. DANIELS: -- the third floor.

4 JUDGE RILEY: Okay. Hold on.

5 MS. DANIELS: It is a boiler. In the attic

6 there's a central heating plant. There's a boiler

7 on the third floor.

8 MS. BROGDEN: Okay.

9 JUDGE RILEY: There's a boiler on the third

10 floor.

11 Is that in addition to this furnace

12 that you found?

13 MS. DANIELS: Yeah, the furnace is in the attic.

14 We actually went on every floor at her

15 premise. The only reason I noticed that there was a

16 central heating plant in the attic is because I

17 looked up at her ceilings.

18 JUDGE RILEY: Okay.

19 MS. DANIELS: And when I looked up at the

20 ceilings I saw a distributing vent.

21 JUDGE RILEY: All right.

22 MS. DANIELS: So the guy that was there,

1 Mr. Payne, I said to him, Is there a furnace in this
2 location? And he said, I don't think so. And I
3 said, Well, I'm looking at distributing ducts here.
4 It looks as if there's a furnace somewhere in this
5 location. He says, No, I don't think it is. And I
6 said, Is there an attic here? And he says, Yeah,
7 there's an attic here. And I said, Do you know
8 where we could get access to the attic? And he
9 didn't know. So we walked around and we found a
10 small door. And I said to him, Is it possible we
11 can open this door? And we opened the door and
12 there was a stairway leading to the attic and that's
13 where we found a horizontal 75,000 BTU furnace.

14 MS. BROGDEN: But did he tell you it doesn't
15 work and that it's never on? And actually there is
16 not a boiler there. There is a hot water tank. And
17 the two hot water tanks on the first and the second
18 floor. There's a boiler right next to them. But
19 those hot water tanks, if I'm not mistaken, they are
20 electric.

21 MR. GOLDSTEIN: Judge, I mean --

22 MS. BROGDEN: I can take pictures and bring them

1 back.

2 JUDGE RILEY: Okay. No, I understand.

3 MR. GOLDSTEIN: You know, she has to do whatever
4 she's going to do with respect to how she's going to
5 present her testimony.

6 But I think what we've done this
7 morning is explain to you why her bills are so high
8 and what I don't know, in looking at her complaint,
9 is what amount she is actually disputing and over
10 what period of time.

11 JUDGE RILEY: Well, we're going to try and get
12 to that, Mr. Goldstein. But, frankly, the more I
13 hear, the more questions I have about this building.

14 MR. GOLDSTEIN: Obviously, this is quite a large
15 building. And, you know, the bills are commensurate
16 with the size of the building.

17 JUDGE RILEY: Well, but it doesn't answer the
18 question is why wasn't there any -- I'm trying to
19 see how to put this.

20 If no one is there using gas or using
21 only a nominal amount -- and the building is only
22 using a nominal amount of gas because there's no

1 occupancy, why are these bills --

2 MR. GOLDSTEIN: Well, she's going to have to
3 present testimony, Judge, as to her setting the
4 thermostat at a particular level. But the
5 countervailing part of that is, that every single
6 bill is based upon an actual meter reading. And if
7 the meter is recording accurately, that's the usage.

8 JUDGE RILEY: That's my next question.

9 All right. There was an undersized
10 meter at the premises at one point.

11 MR. GOLDSTEIN: Correct.

12 JUDGE RILEY: That was changed to a larger
13 meter.

14 MS. DANIELS: Correct.

15 JUDGE RILEY: And that has got to be changed to
16 still a larger meter.

17 MS. DANIELS: Correct.

18 JUDGE RILEY: Now, when the meter is undersized,
19 is it measuring less gas than it should or more gas
20 than it should?

21 MS. DANIELS: No, when the meter is undersized
22 there's a possibility that it can cycle within a

1 billing period dependent on what appliances are
2 being used.

3 JUDGE RILEY: I don't know what that means.

4 MS. DANIELS: What it means is that the meter
5 can cycle and it can -- normally, the meter doesn't
6 cycle.

7 JUDGE RILEY: What does "cycle" mean?

8 MS. DANIELS: It means that it can -- it's a
9 four-dial meter. It means that it can -- normally
10 the meter in a cycle, if it's properly sized, it
11 does not -- all four dials -- the last dial doesn't
12 cycle, it doesn't go around the zero twice. There's
13 a possibility that it went around the zero twice due
14 to the fact that it was undersized. But she's
15 saying she wasn't using gas so it shouldn't have
16 cycled. It shouldn't have past the zero twice. It
17 never should go passed the zero twice in a billing
18 cycle.

19 JUDGE RILEY: All right.

20 MR. GOLDSTEIN: To follow that up, Judge.

21 Even though the meter is undersized,
22 it's still recording gas usage accurately, isn't

1 that right, Ms. Daniels?

2 MS. DANIELS: Yeah, it's recording what was
3 used.

4 JUDGE RILEY: Then why did it have to be
5 replaced?

6 MS. DANIELS: The reason that I am suggesting
7 that it be replaced is -- I'm -- with all of her
8 gas-burning appliances, her eight fireplaces and all
9 of her appliances operating at one time, at the same
10 time, that meter is too small. Chances are that she
11 won't have all eight fireplaces and all of the
12 appliances operating at full capacity at the same
13 time, so -- she needs a larger meter in the event
14 that she's -- she's saying she's not there. So I
15 know all three heaters aren't going at the same
16 time, if she's not there.

17 JUDGE RILEY: That brings me to yet another
18 question then.

19 Did Peoples Gas install these meters
20 to begin with?

21 MS. DANIELS: Yes, we did.

22 JUDGE RILEY: Why, if they knew of the size of

1 this place and all of the different appliances and
2 all the things that could use gas? Did they put a
3 meter in there that was too small?

4 MS. DANIELS: We weren't aware of all of her
5 appliances. Had I not looked at her ceiling, I
6 wouldn't have known that there was a heater in her
7 attic. But Mr. Payne, her maintenance -- whoever
8 this guy was that gave me access, he wasn't aware
9 that the heater was there. And he was told to take
10 us to all the gas appliances.

11 JUDGE RILEY: Wouldn't it be incumbent upon
12 Peoples Gas to understand what is in the building
13 before they install a gas meter so they know they
14 have the right size?

15 MS. DANIELS: Yes, it would, when the
16 customer -- those are their appliances. So when we
17 go out to size the meter up for the consumption, the
18 customer informs us of what appliances they have
19 there and we add the BTUs, so we can install the
20 proper size meter. If they don't tell us that
21 there's appliances in their attic, closets, we don't
22 go in and open all of their closets looking at them

1 and go in their attics and crawl spaces. We don't
2 go through their house opening their doors. They
3 have to let us know what appliances they have there
4 and that's what we size the meter based on that.

5 JUDGE RILEY: So Peoples Gas installed the meter
6 based upon what you were told was the usage.

7 MS. DANIELS: Correct.

8 MS. BARRAGAN: This is a rehab property, right?
9 You first purchased it in 1997 and you rehabbed it?

10 MS. BROGDEN: It was actually a full rehab.
11 It's not a rehab like you go in and somebody is
12 living there. This was an abandoned property. So
13 when Peoples Gas -- I guess my thing is, why would I
14 not tell you if I'm going to go through this? If
15 I'm going to get higher gas bills, why would I hide
16 anything? What's the point? It's to my advantage.
17 There's no advantage for saying, Oh, guess what, I
18 have a toothbrush in a closet.

19 I mean, when they came out the first
20 time and they looked -- walked through the house,
21 which is what your technician -- actually the second
22 guy told me. We walked through -- that particular

1 guy was a really good guy. He came through and he
2 walked through everything. And he was the one who
3 said -- he said, It's like having a Volkswagen
4 trying to push -- it's kind of what you described --
5 Volkswagen trying to push the gas into, you know,
6 something that it just can't do. He said, Your
7 meter is too small and it's cycling, it's constantly
8 running. So he said, The problem is, Your meter is
9 too small, but they're not going to tell you that.
10 So I just kept dealing with it. And finally they
11 changed it.

12 But they told me they were going to
13 put in a commercial meter. And then you told me
14 that this is not a commercial meter, that I needed a
15 commercial meter.

16 That furnace -- it is not a furnace on
17 the third floor. It is a combination forced vent,
18 you know, heat and forced vent. That's been there
19 since 1997, since the first -- none of my appliances
20 have been changed out. I've been living in that
21 house since 1997. It was a total rehab. I've been
22 working on painting and all of that. The things

1 that you do -- the roofing, the windows, all the
2 systems work -- that goes in when you first do it.
3 You have to have plans and blueprints. I had to
4 have blueprints for up there. I just didn't, all of
5 a sudden, turn around and put it up. You know,
6 that's a major project you're talking about, to
7 putting in a -- and then to tear up the ceilings and
8 put -- drop vents down through the top. You know,
9 that's a major project. You just don't say, Okay,
10 I'm just going to put in -- I would do that -- that
11 was done at the beginning when the house was first
12 bought. We knew what we were going to do when we
13 first bought it. There was no reason for me to hide
14 nothing, okay.

15 MS. DANIELS: Ma'am, I'm sure the heating plants
16 were put in during the initial phase. I'm sure of
17 that.

18 MS. BROGDEN: Yes, you've got to have plans.

19 MS. DANIELS: I know that. I've only been doing
20 this 28 years, so I know that.

21 I never said you hid anything. Those
22 were your words. I know another employee was out

1 there prior to me, did not know that there was a
2 heating plant in your attic.

3 MS. BROGDEN: Heating plant?

4 MS. DANIELS: Central heating plant, that's what
5 it's called. A forced air furnace is called a
6 central heating plant.

7 He did not know that there was a
8 central heating plant there. And had I not looked
9 up at your ceilings, I would not have known that
10 there was a heating plant there, neither did the guy
11 that you had --

12 MS. BROGDEN: Was it on when you were there?

13 MS. DANIELS: No, it wasn't on.

14 MS. BROGDEN: Was anybody --

15 MS. DANIELS: Ma'am, he could have turned it
16 down prior to me getting there.

17 MS. BROGDEN: I --

18 JUDGE RILEY: Hold on. Hold on. The court
19 reporter can only take one voice down at a time.
20 And I can't have an argument here.

21 MS. DANIELS: I was talking.

22 MS. BROGDEN: I apologize.

1 JUDGE RILEY: That's okay.

2 Ms. Daniels, please continue.

3 MS. DANIELS: Right, the appliance wasn't
4 operating when I got there and I never said it was,
5 but you can turn an appliance down before me getting
6 there. I can only speak on what I found there, what
7 appliances I found there, the BTUs each appliance
8 burns.

9 When I got there, actually, all of
10 them were off on temperature. I don't know if
11 someone turned them down prior to me coming there,
12 which, you know, could have possibly happened. All
13 I can say is what I found when I got to her premise.

14 JUDGE RILEY: And this furnace in the attic was
15 operating and using gas?

16 MS. DANIELS: No, it was not on when I got --
17 had it been on, I would have known that it was there
18 because it was forced air, it would have been
19 blowing above my head. I just looked up and saw it.

20 JUDGE RILEY: Then what you're saying, it could
21 have been turned off just prior to the time you got
22 there.

1 MS. DANIELS: It could have been turned off
2 prior to me getting there. I don't know. I can
3 only speak of what I found.

4 JUDGE RILEY: But that's possibly an explanation
5 of why her bills were what they were for those
6 particular months.

7 MS. DANIELS: You know, when I go out on the
8 investigations -- what I write on my reports is what
9 I found. Prior to me getting there, I don't know if
10 the thermostats were on 70, 80 degrees. I can only
11 speak about when I'm at your premise, what I found
12 there. And the customers usually say, you know, it
13 was lower, that they keep it at a certain
14 temperature. I don't argue with them or doubt them
15 because I don't live at their premise. All I know
16 is what I see when I'm there.

17 JUDGE RILEY: Mr. Goldstein, is it my
18 understanding that Peoples Gas is not going to budge
19 on this matter?

20 MR. GOLDSTEIN: Well, I don't know what that
21 means. I don't know what Ms. Brogden is looking for
22 with respect to, you know, what is outstanding on

1 her current balance versus what she believes she
2 owes. That, we haven't gotten to, yet, this
3 morning.

4 JUDGE RILEY: Let's get to that.

5 Ms. Brogden, what is the outstanding
6 balance, the total amount, upwards of around \$3700
7 that's currently owed?

8 MS. BARRAGAN: \$3,757.47.

9 JUDGE RILEY: And you state that you have not
10 received a payment from Ms. Brogden for these
11 premises since last October, is that correct?

12 MS. BARRAGAN: Correct.

13 JUDGE RILEY: Ms. Brogden, I'm going to throw
14 the ball back into your court.

15 What is it you're seeking? What
16 relief are you seeking?

17 MS. BROGDEN: Well, the one thing that I want
18 is, if the meter is not the right size, can we get
19 that done? And you indicate -- what you said,
20 actually, was that the bill will go up because the
21 meter now is going to be larger and it will go up.

22 MS. BARRAGAN: The customer charges will go up,

1 correct, that's what I said.

2 MS. BROGDEN: Okay. That was news to me.

3 But even if it goes up, I would rather
4 know that I'm paying the right amount. I don't
5 think it's fair for me to pay for usage that I'm not
6 using. I should pay, in my opinion, for the three
7 months that Jennifer was in my property. The other
8 months I should not have to pay them because that's
9 not -- I wasn't there, no one was there.

10 I guess another question I have. When
11 you were out there at the property, you looked at
12 the meters and you said that there was something --
13 they were cycling.

14 MS. DANIELS: Not the meters. My only concern
15 was your meter when I was there. There's three
16 meters there.

17 MS. BROGDEN: Right, my meter.

18 What did you observe?

19 MS. DANIELS: I have pictures of your meter, so
20 I can show you what I saw there (indicating). But
21 what I observed -- the first thing I observed when I
22 got there is that you guys had put landscaping and

1 dirt and debris around our meter. That meter should
2 be at least 12 inches off the ground. That was the
3 first thing I brought to the guy's attention, that
4 you guys can't bury the meter. You can't put the
5 meter under, you know, the dirt.

6 MS. BROGDEN: The meter is behind bushes. If
7 you have a picture --

8 MS. DANIELS: No, it's under the dirt
9 (indicating). It's under.

10 MS. BROGDEN: But you --

11 MS. DANIELS: Ma'am, we didn't put it under the
12 dirt. Apparently the landscaping was put in after
13 we put the meter in. We didn't dig up a space to
14 set your meter down in the dirt, because your meter
15 is under the dirt now.

16 JUDGE RILEY: Ms. Daniels, what you're saying,
17 the dirt was piled up around the meter subsequent to
18 the time it was installed. Okay.

19 MS. DANIELS: The meter is under the
20 landscaping.

21 JUDGE RILEY: Right.

22 MS. DANIELS: It's under there.

1 JUDGE RILEY: I'm confused again. How many
2 meters are involved here?

3 MS. DANIELS: There's three meters at this
4 location.

5 JUDGE RILEY: Because it's a three-story
6 building. And are these three separate units?

7 MS. DANIELS: No, it's two garden apartments,
8 front and rear, and then the main level and the
9 upper -- the upper levels are where she lives.

10 MS. BROGDEN: I have three levels. And I have a
11 basement apartment and it's split into a front
12 basement and a back basement.

13 JUDGE RILEY: Separately metered.

14 MS. BROGDEN: Yeah. And all the meters are
15 there and I knew that it was a different meter they
16 had put in for my unit because it was larger. I
17 just said, Okay. Well, I got what I need.

18 JUDGE RILEY: More questions.

19 Then there are three separate living
20 units, at least, in this building, is that correct?

21 MS. BROGDEN: Yes. Two base- --

22 JUDGE RILEY: Two basement apartments and --

1 MS. BROGDEN: One in the front and one in the
2 back.

3 JUDGE RILEY: And were these all vacant at that
4 time -- at the time --

5 MS. BROGDEN: No. The two basement apartments
6 were -- had people in them. And that's just to make
7 sure there's somebody there to, you know, protect
8 the property. So somebody is, at least, on, you
9 know -- on that corner, because it's kind of a rough
10 area, but anyway. . .

11 JUDGE RILEY: The \$3750 that's due, does that
12 encompass all three of these meters or just the one?

13 MS. BARRAGAN: Just the one.

14 MS. BROGDEN: My house.

15 JUDGE RILEY: And what is it, like, on the main
16 floor? It's, like, a high first floor?

17 MS. BROGDEN: Yes, it's a high first floor, then
18 you have the second floor, then you've got the third
19 floor.

20 MS. BARRAGAN: I don't know how it looks, she
21 does. I didn't see the property.

22 JUDGE RILEY: Now, does the meter that measures

1 usage for the high first floor, which is --
2 Ms. Brogden, that's your residence, is that correct?
3 MS. BROGDEN: Right.
4 JUDGE RILEY: Does that also measure the usage
5 for the remainder of the building going up?
6 MS. DANIELS: Yes.
7 MS. BROGDEN: Yes, it does.
8 JUDGE RILEY: So there's another story above the
9 high first floor?
10 MS. DANIELS: Two stories.
11 MS. BROGDEN: Uh-hum.
12 JUDGE RILEY: And then an attic?
13 MS. BROGDEN: Yes.
14 MS. DANIELS: Correct.
15 JUDGE RILEY: So it's a basement --
16 MS. BROGDEN: A basement.
17 JUDGE RILEY: -- which is not in issue here.
18 MS. BROGDEN: That's correct.
19 JUDGE RILEY: The high first floor, two more
20 stories and an attic.
21 MS. DANIELS: With very high ceilings. I think
22 they're -- I believe they're 10- or 12-foot

1 ceilings. Very high.

2 JUDGE RILEY: All right.

3 MR. GOLDSTEIN: Obviously, Judge, as far as
4 Peoples Gas is concerned, there has to be winter
5 usage even -- I don't care how low Ms. Brogden
6 turned down her thermostat. And for her to say she
7 only wants to pay for the three months that her
8 daughter was living there is, obviously,
9 unacceptable.

10 JUDGE RILEY: I don't know if that's what she's
11 saying. She's saying -- I think you want some
12 relief --

13 MR. GOLDSTEIN: I'm trying to figure out --

14 JUDGE RILEY: Please.

15 MR. GOLDSTEIN: I'm trying to --

16 JUDGE RILEY: Please.

17 I think, Ms. Brogden, you're trying to
18 say you want some relief for the time that you
19 weren't there --

20 MS. BROGDEN: Right.

21 JUDGE RILEY: -- but you're not saying you don't
22 owe anything.

1 MS. BROGDEN: Right.

2 I don't think I don't owe anything
3 because, you know, I'm a fair person. You know, you
4 don't get anything for free. But I do think I
5 should pay for what I've used. I also think that
6 something should happen -- I've been doing this --
7 I've been paying since I've been there. So at what
8 point do we get the meter right? Because I did
9 not -- I told Peoples Gas -- I walked Peoples Gas
10 through the place the second time they put in a
11 different meter.

12 So for you to say on the third time
13 that, Hey, you still need a new meter, you can come
14 back again, and say, Well, you know what, you got a
15 new refrigerator or you got a new stove or whatever
16 and now your bills are getting -- you know, that's
17 why your bills are high. That's the way I'm looking
18 at this thing.

19 Every time you come out you say you
20 see something new and it's my fault. And I wish I
21 had it like that, but I don't. So, you know, the
22 bottom line is, what you saw is what was there when

1 the meter was first put in 1997 and that was the
2 wrong meter then, according to you. I know nothing
3 about meters.

4 JUDGE RILEY: Is it Peoples Gas' contention that
5 even though the meter might have been too small, the
6 fact that it cycled, that it wasn't measuring the
7 right amount of usage, it was just doing it --

8 MS. DANIELS: Correct.

9 JUDGE RILEY: -- working harder --

10 MS. DANIELS: Correct.

11 JUDGE RILEY: -- than a larger meter would have
12 worked?

13 MS. DANIELS: Correct.

14 MR. GOLDSTEIN: Well -- and we still don't know
15 exactly what she's looking for with respect to what
16 kind of relief with respect to that \$3700 bill
17 that's outstanding.

18 JUDGE RILEY: Well, I understand that there's no
19 specific sum of money that she has stated. But
20 she's looking for some kind of acknowledgement that
21 her thermostat was set at 60 degrees instead of,
22 what, 75 or whatever during the winter months.

1 MS. BROGDEN: You know, the meter situation
2 needs to be resolved, you know, if it is a problem
3 with the meter. Sometimes I think -- I'm not sure
4 when I'm talking to people at the Gas Company if
5 they're really giving me -- you know, if they're not
6 just throwing stuff on the wall and seeing where it
7 sticks.

8 What surprised you was the fact that
9 you didn't realize that there was a meter already
10 installed.

11 MS. BARRAGAN: Not that it surprised me, but our
12 records are purged and it was no longer something
13 for me to access and to see at that particular time
14 since it was so long ago.

15 MS. BROGDEN: Once I said that, wouldn't it just
16 be logical that, you know, Okay, you know -- you
17 know, you said you put in a commercial meter. You
18 said that it's not a commercial meter --

19 MS. BARRAGAN: I said we had put in a bigger
20 meter. I didn't make reference to "commercial." We
21 had put in a bigger meter. And they did put in a
22 bigger meter on June the 10th of '05, is that

1 correct?

2 MS. BROGDEN: No.

3 MS. BARRAGAN: Prior to that there was one on
4 September of '01.

5 MS. BROGDEN: Right.

6 MS. BARRAGAN: That's what we're showing here.
7 That's what we're showing on our records.

8 MS. BROGDEN: You know, there was not another
9 meter put in in '05.

10 MS. BARRAGAN: It says, Installed June 10th of
11 '05. That's what our records are showing.

12 MS. BROGDEN: I have a letter from you guys
13 saying that you put it in on 2000- -- in 2001. A
14 review of our records indicates that --

15 MS. BARRAGAN: That's another one.

16 MS. BROGDEN: I only had two meters. The first
17 one you put in when I first did the house in 1997.
18 And then I complained about the bills being, you
19 know, just ridiculous, a grand a month. And then I
20 got a letter -- I finally got Peoples Gas, after
21 coming to Illinois Commerce again --

22 MS. BARRAGAN: Right.

1 MS. BROGDEN: -- in September 21, 2001 -- this
2 is from Jeffrey Schaffer (phonetic) at Peoples Gas,
3 that's when you put it in. I don't know anything
4 about a 2005 meter.

5 I've been paying since 2001 whatever
6 you guys sent. And then I move out of the house and
7 I'm still paying the higher price. That's the only
8 reason we're sitting here today. If I didn't move,
9 I wouldn't know a difference.

10 So my thing is, I want to know that
11 I'm paying the right bill and I will pay the bill.
12 I don't think I should pay this 3700, because I've
13 been paying the whole time and not knowing whether
14 I'm paying the right bill or not. And I don't think
15 anybody does at this point.

16 MR. GOLDSTEIN: Well, then, what do you think
17 you should have been paying -- what do you think
18 your outstanding balance is today?

19 MS. BROGDEN: I see it, it's \$3700.57.

20 MR. GOLDSTEIN: And that's based upon the actual
21 meter readings, isn't it?

22 MS. BROGDEN: It probably is. But based on what

1 Ms. Daniels just said and what the guy said to me in
2 2001 -- is it correct that when it cycles that
3 it's -- it's continuing to cycle because it's trying
4 to pump out, but it's not efficient -- it's not able
5 to do it? So it's continuing to cycle, which means
6 that I'm using more gas than I have to use --

7 JUDGE RILEY: You think --

8 MS. BROGDEN: -- is that the way it works?

9 MS. DANIELS: No. You're not using more gas
10 than you have to use. You're using the gas your
11 appliance is calling for, that's what you're using.

12 MS. BROGDEN: But how can my appliances be
13 calling for gas and I don't live there?

14 MS. DANIELS: Ma'am, I don't know what your
15 thermostat is on. I hear you. I don't live there.
16 I don't know what your thermostat is on. I hear you
17 saying it's on 60. I know when I got there it was
18 on 60. I don't know what it was before prior to me
19 getting there.

20 JUDGE RILEY: What Peoples Gas is saying is that
21 the meter, no matter how small, is still measuring
22 the usage accurately. And the actual readings are

1 strictly -- is precisely what you go by. And the
2 readings are what they are.

3 MS. BROGDEN: When they changed it the first
4 time out, because the meter was too small, what the
5 technician told me was that the meter was driving
6 the cost up.

7 MS. DANIELS: I don't know what he told you. I
8 don't have it in writing and neither do you, so I
9 don't know what he told you.

10 MS. BROGDEN: No, I don't.

11 But I know when you were out, you're
12 saying that the meter needs to be changed, as well.

13 MS. DANIELS: Correct. I said the meter --
14 because I noticed the heating plant in the attic.
15 And it's obvious he didn't notice it because he
16 didn't note it. I don't know -- apparently, he
17 wasn't informed that the heater was there.

18 And just as I said to you, had I not
19 looked up at your ceiling -- and we normally don't
20 go in just looking at people's ceilings. The only
21 reason I was looking at your ceiling is because I
22 had a field employee with me, who was actually

1 testing your appliances, and I was witnessing him
2 testing your appliances. So when he turned the
3 thermostat on the second floor water heater, the
4 40,000 BTU water heater, when he turned the
5 thermostat up to make sure that the flu was
6 pulling --

7 MS. BROGDEN: Right.

8 MS. DANIELS: -- and the burner was operating
9 properly. As he did that I was standing and I
10 looked up and I saw this vent in the ceiling. Had I
11 not looked up, ma'am, we would have still walked
12 away from this. We would have left without knowing
13 that you needed a larger meter.

14 MS. BROGDEN: And see, I didn't know that you
15 didn't know because this is the second time you've
16 been in my house.

17 MS. DANIELS: Did you take the guy that was --

18 MS. BROGDEN: Yeah, all --

19 MS. DANIELS: -- there to your attic?

20 MS. BROGDEN: -- the time --

21 MS. DANIELS: You took him to your attic?

22 MS. BROGDEN: The guy that came in in December

1 when I was there the last two weeks, he didn't come
2 in the house. He looked at the meter and he said,
3 Based on -- and that's what I thought that you had
4 saw. That's why I asked you what did you see happen
5 with the meter? He looked at the meter and he said,
6 There's a problem with your meter. Something is
7 happening, you know, with your meter. It shouldn't
8 be turning, or something, on. He said, There's a
9 problem with your meter, so we need to do something
10 different. So that's when we got the supervisor in.

11 And it sounded to me like you agree.
12 Now, he didn't say I need a bigger meter because he
13 didn't come in the house. You were the one who said
14 that I need a bigger meter.

15 MS. DANIELS: Okay. You're stating that my
16 employee looked at your meter not knowing your
17 consumption, your load, and stated that you --

18 MS. BROGDEN: Yes, he did.

19 MS. DANIELS: Okay.

20 MS. BROGDEN: You don't think that that
21 happened, you are mistaken.

22 JUDGE RILEY: We're at, apparently, an impasse,

1 Ms. Brogden --

2 MR. GOLDSTEIN: Let's set this for an
3 evidentiary hearing, Judge.

4 JUDGE RILEY: Again, Peoples Gas is --

5 MR. GOLDSTEIN: You know --

6 JUDGE RILEY: -- needs -- in other words, they
7 need some specifics from you as to what relief it is
8 you're asking for.

9 MS. BROGDEN: What I'd like to know -- as you
10 indicated, Ms. Daniels, I need a new meter. What
11 does that mean? What does that usually mean, you
12 know?

13 MS. DANIELS: It's a larger meter. A larger
14 meter would, at any time that you would have
15 everything -- everything that you use gas for, your
16 eight fireplaces, your two boilers, your forced air
17 furnace in the attic, your two water heaters, your
18 dryers, your ranges, if you were to have all of
19 those at one time --

20 MS. BROGDEN: There's just me in this house.

21 MS. DANIELS: Ma'am, that's your house and those
22 are your appliances.

1 MS. BROGDEN: Okay.

2 MS. DANIELS: I don't know what you do.

3 If you have all of this on at one
4 time, the meter that we are going to put in would
5 pass enough gas that all of these appliances could
6 operate at maximum and there'd not be a problem with
7 the meter cycling. That's all that it's going to
8 do.

9 MS. BROGDEN: What is the problem with the meter
10 cycling?

11 MS. DANIELS: We don't put -- we don't like the
12 meters to cycle.

13 MS. BROGDEN: Okay.

14 MS. DANIELS: Our policy is to not have the
15 meters cycle. They're still registering and they're
16 registering the amount of gas that's used there.
17 And these are actual readings. Your meter is read
18 each month. So they are actual readings. And, you
19 know, there's not a problem with the meter or the
20 readings as far as the operation of the meter. It's
21 operating properly. There's not any default with
22 the meter.

1 JUDGE RILEY: Ms. Brogden, we're at the point
2 now where if we do go to -- you're certainly
3 entitled to your day in court on this matter.

4 MS. BROGDEN: Uh-hum.

5 JUDGE RILEY: If we do go to court, the question
6 becomes what is it you're going to try and prove and
7 do you have the evidence to prove that?

8 MS. BROGDEN: To me the issue is real simple.

9 I need a meter that works, that gives
10 me what I'm supposed to have. And I also -- it is
11 not correct. I don't care what you say about the
12 meters that are there and how they -- there was no
13 one in the house. So for me to pay the same as if I
14 were living there is incorrect, period.

15 JUDGE RILEY: Then it comes down to a question
16 of can you prove that?

17 MS. BROGDEN: Can I prove that I was living in
18 Georgia? Yes. I have a lease for the apartment
19 that I had in Georgia. Yes.

20 JUDGE RILEY: All right. Can you prove -- the
21 proof goes back to the building itself. And can you
22 prove that the -- what you say is that you did not

1 use the amounts of gas that Peoples Gas says you've
2 used. That's the difficulty. And that's what
3 you're up against.

4 MS. BROGDEN: Well, here's the thing too. If
5 you look at October of 2009, the bill was \$322.

6 JUDGE RILEY: That's just for one month usage,
7 correct?

8 MS. BROGDEN: It's for one month usage.

9 No, that was September. I'm sorry.

10 JUDGE RILEY: All right.

11 MS. BROGDEN: October was 463. It's not even
12 cold then.

13 JUDGE RILEY: And you were not living there.

14 MS. BROGDEN: No.

15 JUDGE RILEY: No one was living there.

16 MS. BROGDEN: No. It's not even cold.

17 And then in November it was 721, you
18 know.

19 JUDGE RILEY: What Peoples Gas is going to come
20 back with to say, We looked at the meter. It was
21 registering usage accurately. And we based the
22 billings upon these actual readings. And they're

1 going to provide the actual numbers and say, These
2 are the amounts that it came out to. And this is
3 what you're going to have to overcome to begin with.

4 In other words, you would go forward
5 first with your proof.

6 MS. BROGDEN: And my proof, basically, would be
7 I haven't lived there. I have a lease. I can't
8 say -- you know, I don't have a videotape to show me
9 in Albany. But I can definitely get something from
10 my employer in Albany, Georgia, that says that --
11 2009, the only time I went home was for Christmas
12 vacation.

13 JUDGE RILEY: I understand -- I don't think
14 Peoples Gas is going to dispute that. All they're
15 saying is that, We have these solid numbers and this
16 shows us what your living unit was using --

17 MS. BROGDEN: These are van readings.

18 MS. DANIELS: Those were actual readings. We
19 read the meters by the van now.

20 MS. BROGDEN: Okay.

21 MS. DANIELS: That is our procedures.

22 MS. BROGDEN: Because I've got a letter

1 showing -- they show "van" and then they show
2 "actual."

3 MS. DANIELS: Actual is -- you're going to show
4 an actual reading when I came out, as well, because
5 I was physically there and we entered a reading.
6 That's what an actual reading is, if someone is
7 there for some reason. If we're there for an inside
8 safety inspection or if you call us out, anytime we
9 come we do read your meter. So then you would see
10 "actual."

11 MS. BROGDEN: Otherwise you drive by --

12 MS. DANIELS: The van is going to read it every
13 single month. If I come out twice -- if you call us
14 out for a gas leak, you call us out for whatever
15 reason, we're going to read your meter when we're
16 there, as well. That's when you see "actual."

17 MS. BROGDEN: Now when you say "van," are you
18 getting out of the vehicle?

19 MS. DANIELS: We don't have to get out the
20 vehicle.

21 MS. BROGDEN: You just scan it.

22 MS. DANIELS: No, we don't scan it, either. It

1 just automatically picks the reading up.

2 MS. BROGDEN: Okay. So that's what you call an
3 "actual" reading.

4 MS. DANIELS: Correct.

5 JUDGE RILEY: And this is where we are. So if
6 you want to go to an evidentiary hearing, you're
7 certainly entitled to it.

8 MS. BROGDEN: Well, I --

9 JUDGE RILEY: I just want to make sure you
10 understand --

11 MS. BROGDEN: Yes.

12 JUDGE RILEY: -- what the circumstances are and
13 what the level of proof is that you're going to need
14 to --

15 MS. BROGDEN: I don't know how you prove that,
16 you know, you're not in a house when you have an
17 apartment somewhere else, you're living there,
18 nobody is in the house, but yet your readings --
19 your meter is registering 400 and \$300 worth of
20 usage and nobody is there.

21 JUDGE RILEY: I understand that. Unfortunately,
22 that's the responsibility you face if you do go to

1 hearing. And as I said, you're more than entitled
2 to a hearing date.

3 MS. BROGDEN: When would be the hearing date?

4 JUDGE RILEY: Well, I suggest we -- today is
5 August 2nd, I suggest we -- Mr. Goldstein, you
6 think, what, 30 days in advance?

7 MR. GOLDSTEIN: That would be fine.

8 JUDGE RILEY: Just to see the calendars are
9 clear?

10 Do we want to make this before
11 Labor Day?

12 MR. GOLDSTEIN: Fine with me.

13 JUDGE RILEY: Ms. Brogden, would that be --

14 MR. GOLDSTEIN: Ms. Daniels is on vacation the
15 last week in August and the first week in September.

16 JUDGE RILEY: Okay. Then it's going to have to
17 happen after Labor Day.

18 MS. BROGDEN: That actually works better for me,
19 because I'm actually leaving Thursday.

20 JUDGE RILEY: And you realize you would have
21 to -- as you appeared in person today, you would
22 have to appear in person for the hearing.

1 MS. BROGDEN: Okay.

2 JUDGE RILEY: September 8, I know that's

3 Labor Day weekend.

4 We're off the record.

5 (Whereupon, a discussion

6 was had off the record.)

7 JUDGE RILEY: We're back on.

8 The following week, the week of the

9 13th?

10 MR. GOLDSTEIN: Either the 15th or the 16th,

11 Judge.

12 JUDGE RILEY: Ms. Brogden, is either one of

13 those days good for you? I vote for the 15th.

14 MS. BROGDEN: That's a Wednesday.

15 JUDGE RILEY: Right in the middle of the week.

16 MS. BROGDEN: Actually, Thursdays, Fridays are

17 better because I have -- I work.

18 JUDGE RILEY: Thursday, September 16th?

19 MS. BROGDEN: Okay.

20 JUDGE RILEY: That's September 16th and it will

21 be at 10:00 a.m.

22 MS. BROGDEN: Okay.

1 At that point can I bring a lawyer in
2 or is it --

3 JUDGE RILEY: You can have an attorney file an
4 appearance on your behalf anytime at all, but just
5 make sure they file the appearance with our Clerk's
6 Office. But, yes.

7 The only other thing I would admonish
8 is that hiring the attorney will not serve to push
9 this matter back. He'll have to take the case as it
10 is and bring himself up to date.

11 MS. BROGDEN: Okay.

12 MR. GOLDSTEIN: So would the time be at
13 10:00 a.m., Judge?

14 JUDGE RILEY: 10:00 a.m.

15 So that's where we are right now.

16 We'll leave it at that. We are set
17 for evidentiary hearing in the matter of Brogden v
18 Peoples Gas at 10:00 a.m. on September 16, 2010.

19 Thank you.

20 (Whereupon, the above-entitled
21 matter was continued to
22 September 16, 2010.)